

1 DECLARATION OF FRANK KORTUM

2 I, Frank Kortum, hereby declare and state as follows:

3 I have personal knowledge of the following facts and, if
4 called as a witness, would testify thereto under oath.

5 1. I am an Assistant United States Attorney in the Central
6 District of California. In my capacity as an Assistant United
7 States Attorney, I am chiefly responsible for the representation
8 of the government's interest in this action, entitled \$806,900.00
9 in U.S. Currency, \$233,120.00 in U.S. Currency and \$9,010.00 in
10 U.S. Currency; No. CV 09-8701-MMM (AGRx).

11 2. After reviewing plaintiff's file and records in this
12 case, I am informed and believe that:

13 a. On November 25, 2009, the government filed a Verified
14 Complaint for Forfeiture as to the defendants: \$806,900.00 in
15 U.S. Currency, \$233,120.00 in U.S. Currency and \$9,010.00 in U.S.
16 Currency (collectively referred to hereafter as the "defendant
17 currency") in this action pursuant to Title 21 United States Code
18 § 881(a)(6).

19 b. Process was executed upon the defendant currency by the
20 United States Marshals Service ("USMS") in accordance with
21 Supplemental Rule E(4)(b) on December 16, 2009. Attached hereto
22 as "Exhibit "A" is a true and correct copy of the executed
23 process receipt filed with the court.

24 c. Notice of Civil Forfeiture was posted on an official
25 government internet site (www.forfeiture.gov) for at least 30
26 consecutive days, beginning on January 23, 2010, as required by
27 Rule G(4)(a)(iv)(C) of the Supplemental Rules for Admiralty or
28 Maritime Claims and Asset Forfeiture Actions. Attached hereto as

1 "Exhibit "B" is a true and correct copy of the Proof of
2 Publication for the judicial forfeiture.

3 d. Based on the government's files and records, the known
4 potential claimants are as follows: Jay Apsey and CNP
5 International, LLC, aka CNP Akama Ventures, LLC .

6 Notice to Jay Aspey

7 5. On December 10, 2009, the United States served notice
8 of the Complaint on known potential claimant Jay Apsey at the
9 address of CNP International, LLC, 5049 Elizabeth Lake Road,
10 Waterford, Michigan 48327. The notice was sent by certified mail
11 with a claim letter describing the defendant currency seized in
12 the above action and giving notice as to the time within which a
13 claim and answer were required to be filed as required by Local
14 Rule C(4)(a)(3). Copies of the Complaint and the United States
15 Marshal's Notice of Seizure were also provided. Attached hereto
16 as Exhibit "C" is a true and correct copy of the notice letter
17 along with the United States Postal Service return receipt card
18 which indicates the claim letter was received.

19 6. On December 10, 2009, the United States served and
20 additional notice of the Complaint on known potential claimant
21 Jay Apsey at 5049 Elizabeth Lake Road, Waterford, Michigan 48327.
22 The notice was sent by certified mail with a claim letter
23 describing the defendant currency seized in the above action and
24 giving notice as to the time within which a claim and answer were
25 required to be filed as required by Local Rule C(4)(a)(3).
26 Copies of the Complaint and the United States Marshal's Notice of
27 Seizure were also provided. Attached hereto as Exhibit "D" is a
28 true and correct copy of the notice letter along with the United

1 States Postal Service return receipt card which indicates the
2 claim letter was received.

3 7. On or about February 10, 2010, I became aware that Jay
4 Apsey was represented by an attorney. On February 11, 2010, the
5 United States served notice of the Complaint on known potential
6 claimant Jay Apsey at the address of his attorney, Michael J.
7 Rex, at 1760 S. Telegraph Road, Suite 300, Bloomfield, Michigan
8 48302. The notice was sent by certified mail with a claim letter
9 describing the defendant currency seized in the above action and
10 giving notice as to the time within which a claim and answer were
11 required to be filed as required by Local Rule C(4)(a)(3).

12 Copies of the Complaint and the United States Marshal's Notice of
13 Seizure were also provided. Attached hereto as Exhibit "E" is a
14 true and correct copy of the notice letter along with the United
15 States Postal Service return receipt card which indicates the
16 claim letter was received.

17 Notice to CNP International, LLC aka CNP Akama Ventures, LLC

18 8. On or about February 10, 2010, I became aware that CNP
19 International, LLC was more widely referred to as CNP Akama
20 Ventures, LLC and was represented by an attorney. On February
21 11, 2010, the United States served notice of the Complaint on
22 known potential claimant CNP Akama Ventures, LLC at the address
23 of their attorney, Michael J. Rex, at 1760 S. Telegraph Road,
24 Suite 300, Bloomfield, Michigan 48302. The notice was sent by
25 certified mail with a claim letter describing the defendant
26 currency seized in the above action and giving notice as to the
27 time within which a claim and answer were required to be filed as
28 required by Local Rule C(4)(a)(3). Copies of the Complaint and

1 the United States Marshal's Notice of Seizure were also provided.
2 Attached hereto as Exhibit "F" is a true and correct copy of the
3 notice letter along with the green United States Postal Service
4 return receipt card which indicates the claim letter was
5 received.

6 9. In accordance with Supplemental Rule G(5), the time for
7 known potential claimants Apsey and CNP to file a claim in this
8 action expired on March 18, 2010, and the time for filing an
9 answer expired on April 7, 2010. As to all other potential
10 claimants, claims are due 30 days after the final date of
11 publication, and answers are due 20 days thereafter.

12 10. Plaintiff has not received claims or answers from known
13 potential claimants Apsey and CNP, or any other potential
14 claimant.

15 12. On information and belief, neither known potential
16 claimants Apsey nor CNP are minors nor incompetent persons.

17 13. On information and belief, neither known potential
18 claimants Apsey nor CNP serve in the U.S. military; accordingly,
19 the Soldiers' and Sailors' Civil Relief Act of 1940 does not
20 apply.

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1 14. On the date of filing, this Notice of the Application
2 for Entry of Default by Clerk was served by U.S. mail on
3 potential claimants Apsey and CNP, in care of their attorney,
4 Michael J. Rex, at 1760 S. Telegraph Road, Suite 300, Bloomfield,
5 Michigan 48302.

6 I declare under penalty of perjury, under the laws of the
7 United States of America, that to the best of my knowledge, the
8 foregoing is true and correct.

9 Executed on April 12, 2010 in Los Angeles, California.

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13 FRANK KORTUM
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